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In re Application of LOINTIER et al :
U.S. Application No.: 10/500,228 :
PCT Application No.: PCT/FR02/04589 :
Int. Filing Date: 30 December 2002 :
Priority Date Claimed: 28 December 2001 : DECISION
Attorney Docket No.: 80350-1230 :
For: MULTIPLE-POUCH INTRAGASTRIC :
BALLOON, SURGICAL DEVICE FOR :
EXPANDING SAID BALLOON AND :
METHOD FOR MAKING SAME :

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.497(d)" filed 10 July 2006.

BACKGROUND

On 30 December 2002, applicant filed international application PCT/FR02/04589, which claimed priority of an earlier France application filed 28 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004.

On 25 June 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 16 November 2004, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 May 2005, applicant filed a petition under 37 CFR 1.47(a).

On 03 June 2005, this Office mailed a decision dismissing the 11 May 2005 petition.

On 23 December 2005, applicant filed a renewed petition under 37 CFR 1.47(a).

On 06 March 2006, this Office mailed a decision dismissing the 23 December 2005 renewed petition.

On 25 March 2006, applicant filed a petition under 37 CFR 1.497(d).

On 09 May 2006, this Office mailed a decision dismissing the 25 March 2006 petition.

On 10 July 2006, applicant filed the present renewed petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR 3.73(b) of this chapter).

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, proper written consent of the purported assignee has been provided (see "Consent of Assignee to Deletion of Inventor").

Applicant is advised that the declaration and assignment filed with the renewed petition are improper. Specifically, the declaration and assignment are composite documents formed by using multiple signature pages. Where individual declarations/assignments are executed, they must be submitted as individual declarations/assignments rather than combined into one declaration/assignment. See MPEP 201.03.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.497(d) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916), which should indicate that the declaration filed 10 July 2006 is defective as discussed above.



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